

§ 1.6050H-0

26 CFR Ch. I (4-1-03 Edition)

(m) *Effective date.* This section applies to payments of refunds and credits and offsets allowed after December 31, 1982.

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[T.D. 8571, 59 FR 63250, Dec. 8, 1994]

§ 1.6050H-1 Information reporting of mortgage interest received in a trade or business from an individual.

(a) Information reporting requirement—

(1) *Overview.* The information reporting requirements of section 6050H, this section, and § 1.6050H-2 apply to an interest recipient who receives at least \$600 of interest on a qualified mortgage for a calendar year or who makes a reimbursement of interest described in § 1.6050H-2(a)(2)(iv). Paragraph (b) of this section defines qualified mortgage. Paragraph (c) of this section defines interest recipient. Paragraph (d) of this section contains additional rules relating to the reporting requirement for foreign persons, cooperative housing corporations, and nonresident alien individuals. Paragraph (e) of this section contains rules for determining the amount of interest received on a mortgage for a calendar year. Paragraph (f) of this section provides rules for determining when prepaid interest in the form of points is taken into account as interest for purposes of section 6050H, this section, and § 1.6050H-2.

(2) *Reporting requirement.* Except as otherwise provided in this section and § 1.6050H-2, an interest recipient that either receives at least \$600 of interest on a qualified mortgage for a calendar year or makes reimbursements of interest described in § 1.6050H-2(a)(2)(iv) must, with respect to that interest—

- (i) File an information return with the Internal Revenue Service; and
- (ii) Furnish a statement to the payor of record on the mortgage.

(3) *Optional reporting.* An interest recipient may, but is not required to, report its receipt of less than \$600 of interest on a qualified mortgage for a calendar year. Similarly, an interest recipient also may report reimbursements of interest on a qualified mortgage even if the reimbursements are not required to be reported by § 1.6050H-2(a)(2)(iv). An interest recipient that chooses, but is not required, to file a return as provided in this section and § 1.6050H-2(a) or to furnish a statement

as provided in this section and § 1.6050H-2(b) is subject to the requirements of this section and § 1.6050H-2.

(b) *Qualified mortgage—*(1) *In general.* A mortgage is a qualified mortgage if the payor of record on the mortgage is an individual, including an individual acting in a capacity as a sole proprietor of a business. A mortgage is not a qualified mortgage if the payor of record on the mortgage is not an individual (such as a trust, estate, partnership, association, company, or corporation), even though an individual is a co-borrower on the mortgage and all the trustees, beneficiaries, partners, members, or shareholders of the payor of record are individuals.

(2) *Mortgage—*(i) *In general.* Except as otherwise provided in paragraphs (b)(2)(ii) and (b)(2)(iii) of this section, an obligation is a mortgage if real property (regardless of where located) secures all or part of the obligation. An interest recipient must determine whether real property secures an obligation at the time the obligation is created or, if security is added or removed at a later time, at that later time. Real property includes a manufactured home as defined in section 25(e)(10). An obligation includes a line of credit or a credit card obligation. For purposes of this section and § 1.6050H-2, a borrower incurs a line of credit or credit card obligation when the borrower first has the right to borrow against the line of credit or credit card, whether the borrower actually borrows an amount at that time. An obligation will not fail to be treated as a mortgage solely because, under an applicable State or local homestead law or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

(ii) *Transitional rule for certain obligations existing on December 31, 1984—*(A) *In general.* An obligation that existed on December 31, 1984, is not a mortgage if, at the time the payor of record incurred the obligation, the interest recipient reasonably classified the obligation as other than a mortgage, real property loan, real estate loan, or other similar type of obligation. A reasonable classification of an obligation